

By: Hope

H.B. No. 28

A BILL TO BE ENTITLED

AN ACT

1
2 relating to providing a five percent limit on real property
3 appraisal increases for ad valorem tax purposes.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1.12(d), Tax Code, is amended to read as
6 follows:

7 (d) For purposes of this section, the appraisal ratio of
8 real property [~~a homestead~~] to which Section 23.23 applies is the
9 ratio of the property's market value as determined by the appraisal
10 district or appraisal review board, as applicable, to the market
11 value of the property according to law. The appraisal ratio is not
12 calculated according to the appraised value of the property as
13 limited by Section 23.23.

14 SECTION 2. Section 23.23, Tax Code, is amended to read as
15 follows:

16 Sec. 23.23. LIMITATION ON APPRAISED VALUE OF REAL PROPERTY
17 [~~RESIDENCE HOMESTEAD~~]. (a) The appraised value of real property [~~a~~
18 ~~residence homestead~~] for a tax year may not exceed the lesser of:

19 (1) the market value of the property; or

20 (2) the sum of:

21 (A) five [~~10~~] percent of the appraised value of
22 the property for the last year in which the property was appraised
23 for taxation times the number of years since the property was last
24 appraised;

1 (B) the appraised value of the property for the
2 last year in which the property was appraised; and

3 (C) the market value of all new improvements to
4 the property.

5 (b) When appraising real property [~~a residence homestead~~],
6 the chief appraiser shall:

7 (1) appraise the property at its market value; and

8 (2) include in the appraisal records both the market
9 value of the property and the amount computed under Subsection
10 (a)(2).

11 (c) The limitation provided by Subsection (a) takes effect
12 as to a parcel of real property [~~residence homestead~~] on January 1
13 of the tax year following the first tax year in which the owner owns
14 [qualifies] the property on January 1, except that if the property
15 qualifies as the residence homestead of the owner [for an
16 exemption] under Section 11.13 in the tax year in which the owner
17 acquires the property, the limitation takes effect on January 1 of
18 the tax year following that tax year. Except as provided by
19 Subsections (d) and (e), the [The] limitation expires on January
20 1 of the first tax year following the tax year in which [that
21 neither] the owner of the property ceases to own the property [when
22 the limitation took effect nor the owner's spouse or surviving
23 spouse qualifies for an exemption under Section 11.13].

24 (d) If real property subject to a limitation under
25 Subsection (a) qualifies for an exemption under Section 11.13 when
26 the ownership of the property is transferred to the owner's spouse
27 or surviving spouse, the limitation expires on January 1 of the tax

1 year following the year in which the owner's spouse or surviving
2 spouse ceases to own the property, unless the limitation is further
3 continued under this subsection on the subsequent transfer to a
4 spouse or surviving spouse.

5 (e) If real property subject to a limitation under
6 Subsection (a), other than a residence homestead, is owned by two or
7 more persons, the limitation expires on January 1 of the tax year
8 following the year in which the ownership of at least a 50 percent
9 interest in the property is sold or otherwise transferred to a
10 person other than those owners.

11 (f) This section does not apply to a mineral interest or
12 property appraised under Subchapter C, D, E, F, ~~G,~~ or H.

13 (g) ~~(e)~~ In this section, "new improvement" means an
14 improvement to real property ~~[a residence homestead]~~ that is made
15 after the most recent appraisal of the property ~~[for the preceding~~
16 ~~year]~~ and that increases the market value of the property. The term
17 does not include ordinary upkeep, repair, or maintenance of an
18 existing structure or the grounds or another feature of the
19 property.

20 (h) ~~(f)~~ Notwithstanding Subsections (a) and (g) ~~(e)~~ and
21 except as provided by Subdivision (2), an improvement to property
22 that would otherwise constitute a new improvement is not treated as
23 a new improvement if the improvement is a replacement structure for
24 a structure that was rendered uninhabitable or unusable by a
25 casualty or by mold or water damage. For purposes of appraising the
26 property in the tax year in which the structure would have
27 constituted a new improvement:

1 (1) the last year in which the property was appraised
2 for taxation before the casualty or damage occurred is considered
3 to be the last year in which the property was appraised for taxation
4 for purposes of Subsection (a)(2)(A); and

5 (2) the replacement structure is considered to be a
6 new improvement only to the extent it is a significant improvement
7 over the replaced structure as that structure existed before the
8 casualty or damage occurred.

9 (i) For purposes of applying the limitation provided by
10 Subsection (a) in the first tax year after the 2005 tax year in
11 which the real property is appraised for taxation:

12 (1) the property is considered to have been appraised
13 for taxation in the 2005 tax year at a market value equal to the
14 appraised value of the property for that tax year;

15 (2) a person who acquired in a tax year before the 2005
16 tax year real property that the person owns in the 2005 tax year is
17 considered to have acquired the property on January 1, 2005; and

18 (3) a person who qualified the property for an
19 exemption under Section 11.13 as the person's residence homestead
20 for any portion of the 2005 tax year is considered to have acquired
21 the property in the 2005 tax year.

22 SECTION 3. Section 42.26(d), Tax Code, is amended to read as
23 follows:

24 (d) For purposes of this section, the value of the property
25 subject to the suit and the value of a comparable property or sample
26 property that is used for comparison must be the market value
27 determined by the appraisal district when the property is [a

1 ~~residence homestead~~] subject to the limitation on appraised value
2 imposed by Section 23.23.

3 SECTION 4. Sections 403.302(d) and (i), Government Code,
4 are amended to read as follows:

5 (d) For the purposes of this section, "taxable value" means
6 the market value of all taxable property less:

7 (1) the total dollar amount of any residence homestead
8 exemptions lawfully granted under Section 11.13(b) or (c), Tax
9 Code, in the year that is the subject of the study for each school
10 district;

11 (2) one-half of the total dollar amount of any
12 residence homestead exemptions granted under Section 11.13(n), Tax
13 Code, in the year that is the subject of the study for each school
14 district;

15 (3) the total dollar amount of any exemptions granted
16 before May 31, 1993, within a reinvestment zone under agreements
17 authorized by Chapter 312, Tax Code;

18 (4) subject to Subsection (e), the total dollar amount
19 of any captured appraised value of property that:

20 (A) is within a reinvestment zone created on or
21 before May 31, 1999, or is proposed to be included within the
22 boundaries of a reinvestment zone as the boundaries of the zone and
23 the proposed portion of tax increment paid into the tax increment
24 fund by a school district are described in a written notification
25 provided by the municipality or the board of directors of the zone
26 to the governing bodies of the other taxing units in the manner
27 provided by Section 311.003(e), Tax Code, before May 31, 1999, and

1 within the boundaries of the zone as those boundaries existed on
2 September 1, 1999, including subsequent improvements to the
3 property regardless of when made;

4 (B) generates taxes paid into a tax increment
5 fund created under Chapter 311, Tax Code, under a reinvestment zone
6 financing plan approved under Section 311.011(d), Tax Code, on or
7 before September 1, 1999; and

8 (C) is eligible for tax increment financing under
9 Chapter 311, Tax Code;

10 (5) the total dollar amount of any exemptions granted
11 under Section 11.251, Tax Code;

12 (6) the difference between the comptroller's estimate
13 of the market value and the productivity value of land that
14 qualifies for appraisal on the basis of its productive capacity,
15 except that the productivity value estimated by the comptroller may
16 not exceed the fair market value of the land;

17 (7) the portion of the appraised value of residence
18 homesteads of individuals who receive a tax limitation under
19 Section 11.26, Tax Code, on which school district taxes are not
20 imposed in the year that is the subject of the study, calculated as
21 if the residence homesteads were appraised at the full value
22 required by law;

23 (8) a portion of the market value of property not
24 otherwise fully taxable by the district at market value because of:

25 (A) action required by statute or the
26 constitution of this state that, if the tax rate adopted by the
27 district is applied to it, produces an amount equal to the

1 difference between the tax that the district would have imposed on
2 the property if the property were fully taxable at market value and
3 the tax that the district is actually authorized to impose on the
4 property, if this subsection does not otherwise require that
5 portion to be deducted; or

6 (B) action taken by the district under Subchapter
7 B or C, Chapter 313, Tax Code;

8 (9) the market value of all tangible personal
9 property, other than manufactured homes, owned by a family or
10 individual and not held or used for the production of income;

11 (10) the appraised value of property the collection of
12 delinquent taxes on which is deferred under Section 33.06, Tax
13 Code;

14 (11) the portion of the appraised value of property
15 the collection of delinquent taxes on which is deferred under
16 Section 33.065, Tax Code; and

17 (12) the amount by which the market value of real
18 property [~~a residence homestead~~] to which Section 23.23, Tax Code,
19 applies exceeds the appraised value of that property as calculated
20 under that section.

21 (i) If the comptroller determines in the annual study that
22 the market value of property in a school district as determined by
23 the appraisal district that appraises property for the school
24 district, less the total of the amounts and values listed in
25 Subsection (d) as determined by that appraisal district, is valid,
26 the comptroller, in determining the taxable value of property in
27 the school district under Subsection (d), shall for purposes of

1 Subsection (d)(12) subtract from the market value as determined by
2 the appraisal district of real properties [~~residence homesteads~~] to
3 which Section 23.23, Tax Code, applies the amount by which that
4 amount exceeds the appraised value of those properties as
5 calculated by the appraisal district under Section 23.23, Tax Code.
6 If the comptroller determines in the annual study that the market
7 value of property in a school district as determined by the
8 appraisal district that appraises property for the school district,
9 less the total of the amounts and values listed in Subsection (d) as
10 determined by that appraisal district, is not valid, the
11 comptroller, in determining the taxable value of property in the
12 school district under Subsection (d), shall for purposes of
13 Subsection (d)(12) subtract from the market value as estimated by
14 the comptroller of real properties [~~residence homesteads~~] to which
15 Section 23.23, Tax Code, applies the amount by which that amount
16 exceeds the appraised value of those properties as calculated by
17 the appraisal district under Section 23.23, Tax Code.

18 SECTION 5. This Act takes effect January 1, 2006, and
19 applies only to the appraisal for ad valorem tax purposes of real
20 property for a tax year that begins on or after that date, but only
21 if the constitutional amendment proposed by the 79th Legislature,
22 1st Called Session, 2005, authorizing a five percent limitation on
23 annual increases in the appraised value for ad valorem tax purposes
24 of real property is approved by the voters. If that amendment is
25 not approved by the voters, this Act has no effect.